



DEPARTMENT OF THE ARMY
HEADQUARTERS, EIGHTH UNITED STATES ARMY
UNIT #15236
APO AP 96205-0009

REPLY TO
ATTENTION OF:

EAGA-CP-SES

9 MAY 2005

MEMORANDUM FOR Director, Civilian Human Resource Agency - Korea Region,
Civilian Personnel Operations Center (PECP-KOR-B), Unit #15746, APO AP 96218-
5746

SUBJECT: Determination of Transportation Agreement Eligibility for Locally Hired
Civilians

1. Reference JTR, Vol. 2, Paragraph C4002 B
2. This office recently reviewed a locally hired employee's appeal of his denial of a transportation agreement based on the interpretation of JTR, Vol. 2, Paragraph C4002-B2b(1) which held that a transportation agreement could not be negotiated with a locally hired candidate when there were other locally available candidates on the referral certificate. This office concluded that the presence of locally available candidates on the referral certificate would not, in and of itself, render a locally hired candidate ineligible for a transportation agreement provided s/he met all other eligibility criteria.
3. In accordance with JTR, Vol 2, para. C4002-B2b(1), an initial agreement may be negotiated with a locally hired employee when the following requirement is met: "The commanding officer/designated representative, must determine that another candidate would have to be transferred/appointed from CONUS or from a non-foreign OCONUS area or from a different foreign OCONUS area to fill the position involved unless an agreement is offered to a locally hired candidate. *NOTE: A locally hired candidate is not eligible for an agreement if the position is one for which out-of-country recruitment normally is not undertaken*".
4. In that the JTR, Vol 2, para. C4002-B2b(1) does not address anything regarding candidates being available locally, but rather that the commanding officer/designated representative must determine that another candidate would have to be transferred/appointed from the U.S. or a different OCONUS geographical locality to fill the position involved unless an agreement is offered to a locally hired candidate, eligibility to negotiate a transportation agreement must be determined on a

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case-by-case basis, considering all factors involved. Denial may not be based solely on the presence of other locally available candidates on the referral certificate. Some of the factors that should be considered are:

a. When an announcement is open to candidates outside the geographical area, it is reasonable to conclude that if a local candidate were not selected, one from outside the geographical area would have been.

b. It is common for OCONUS selecting officials to annotate 2nd and 3rd choice selections due to the length of time involved in recruiting, selecting, and having an individual report for duty. Review of the alternate selections would also illustrate whether another candidate would have to be transferred/appointed from the U.S. or a different OCONUS geographical locality.

c. Alternatively, when a determination is made on the availability of local candidates, CONUS recruits on a transportation agreement are not considered to be locally available individuals. The transportation agreement transfers and obligates the gaining organization to the same requirements a transportation agreement negotiated with the selected local hire would. While this must be extrapolated from the specific wording in the JTR, the intent is clear. One would not negotiate and enter into a transportation agreement unless necessary to fill the position. One must then deduce that since a transportation agreement would never be rescinded when a CONUS recruit on a transportation agreement transfers to another organization in the same location, the Commander of the new organization has, by default, entered into a transportation agreement with that selectee. Hence these individuals are not considered to be locally available and would not preclude a locally hired candidate (meeting the conditions of the JTR) from negotiating a transportation agreement.

5. This guidance is to be applied prospectively from the date that this office rendered a decision on the employee's appeal on 4 April 2005.

6. Point of contact is Arcelia Denby, DSN 724-4106, and e-mail: arcelia.denby@korea.army.mil.



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